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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION**

<p>WESTERN WATERSHEDS PROJECT, et al.,</p> <p>Plaintiffs,</p> <p>and</p> <p>CENTER FOR BIOLOGICAL DIVERSITY, et al.,</p> <p>Consolidated Plaintiffs,</p> <p>vs.</p> <p>U.S. FISH AND WILDLIFE SERVICE, et al.,</p> <p>Federal Defendants,</p> <p>and</p> <p>SPORTSMEN’S ALLIANCE FOUNDATION, et al.,</p> <p>Defendant-Intervenors.</p>	<p>Lead Case No. 9:24-cv-43-DWM Member Case No. 9:24-cv-44-DWM</p> <p>STIPULATION TO DISMISS WITHOUT PREJUDICE</p>
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Pursuant to Rule 41 of the Federal Rules of Civil Procedure, all parties hereby stipulate to dismissal without prejudice of the above-captioned consolidated cases. Fed. R. Civ. P. 41(a)(1)(A)(ii). As further explained below, Plaintiffs and Consolidated Plaintiffs (collectively, “Plaintiffs”) have chosen to dismiss their cases with the intention to immediately refile their complaints to avoid the risk that Federal Defendants may argue that the Court lacks jurisdiction over this matter.

1. On June 6, 2024, counsel for Federal Defendants emailed counsel for Plaintiffs asserting that Plaintiffs had failed to comply with the ESA’s 60-day notice provision, 16 U.S.C. § 1540(g)(2)(C).

2. Plaintiffs disagree with Federal Defendants’ assertion and do not concede that Plaintiffs failed to provide proper 60 days’ notice of their intention to sue in accordance with the requirements of the ESA before filing the instant lawsuits, *id.* § 1540(g)(2)(C). However, to avoid the risk that Federal Defendants or another party may raise this jurisdictional argument and thereby disrupt the ongoing proceedings, Plaintiffs have sought and obtained agreement from all parties to dismiss the consolidated cases without prejudice with the intention to refile their complaints to avoid any potential jurisdictional defect.

3. Plaintiffs intend to immediately refile their lawsuits in this Court. To avoid further delay of the proceedings, counsel for Federal Defendants has indicated that they expect to file their “responsive pleadings within 2-3 weeks of

when the refiled complaints are properly served on the U.S. Attorney's Office," rather than by the 60 days provided under the Federal Rules of Civil Procedure. Fed. R. Civ. P. 12(a)(2). Counsel for Defendant-Intervenors have indicated that they intend to immediately refile their motions to intervene and responsive pleadings in the same form as filed on May 10, 2024, which Plaintiffs do not oppose and for which Federal Defendants take no position.

4. Rule 41 provides that a matter can be dismissed without court order by filing a "stipulation of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a)(1)(A)(ii).

Therefore, based on the parties' agreement as reflected in this Stipulation, the consolidated cases are hereby DISMISSED WITHOUT PREJUDICE.

Dated: June 17, 2024

Respectfully submitted,

/s/ Collette L. Adkins

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